

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE TRICOR DIRECT PURCHASER  
ANTITRUST LITIGATION

C.A. No. 05-340 (KAJ)

THIS DOCUMENT RELATES TO:

(consolidated)

## ALL ACTIONS

IN RE TRICOR INDIRECT PURCHASER  
ANTITRUST LITIGATION

C.A. No. 05-360 (KAJ)

THIS DOCUMENT RELATES TO:

(consolidated)

## ALL ACTIONS

## JOINT STATUS REPORT

Pursuant to this Court’s Scheduling Order dated October 27, 2005 (the “Scheduling Order”) (D.I. 43), Coordinated Direct Purchaser Plaintiffs, Indirect Purchaser Class Plaintiffs, and indirect purchaser plaintiff Pacificare Health Systems, Inc. (“Pacificare”), (collectively “Plaintiffs”), and defendants Abbott Laboratories (“Abbott”), Fournier Industrie et Santé, and Laboratories Fournier (“Fournier”) (collectively, “Defendants”) by and through their counsel, hereby submit this Joint Status Report.

### A. Discovery

At this time, all parties have actively begun discovery. First, all required corporate and initial disclosures under Fed. R. Civ. P. 26(a) have been filed and served. Second, on

October 18, 2005, Plaintiffs submitted a proposed protective order to Defendants for their consideration. Third, all parties have served requests for production of documents, pursuant to Fed. R. Civ. P. 34, as detailed below:

1. Coordinated Direct Purchaser Plaintiffs served their first set of document requests on Defendants on September 19, 2005. Indirect Purchaser Class Plaintiffs served document requests on October 26, 2005. Indirect Purchaser Plaintiff Pacificare served document requests on Defendants on November 9, 2005. Defendants served responses to the Coordinated Direct Purchaser Plaintiffs' requests on November 4, 2005, as per the parties' agreement. As of the date of this report, Defendants' time to respond to requests served by Indirect Purchaser Class Plaintiffs and Indirect Purchaser Pacificare has not yet run.

2. Defendants have produced and continue to produce documents that they have produced to the FTC in connection with the FTC investigation identified as Abbott Laboratories, File 005-0124, pursuant to Paragraph 6(b) of the Scheduling Order, many of which also are responsive to certain of the parties' document requests. Defendants intend to produce additional documents, including documents responsive to requests beyond those issued by the FTC.

3. Defendant Abbott Laboratories served requests for production of documents on the Coordinated Direct Purchaser Plaintiffs and Coordinated Indirect Purchaser Class Plaintiffs on September 30, 2005. Direct Purchaser Plaintiffs Louisiana Wholesale Drug

Company, Meijer, Inc., and Rochester Drug Co-Operative served responses and objections to Defendants' document requests on October 31, 2005, and will produce documents pursuant to Defendants' Requests in November 2005. Direct Purchaser Plaintiffs CVS Pharmacy, Rite Aid, and Walgreen served responses and objections to Defendants' document requests on November 1, 2005, and expect to begin producing documents soon, pursuant to those requests. Indirect Purchaser Class Plaintiffs served their responses and objections to Defendants' document requests on November 1, 2005, and plan on producing documents within the next several weeks. Indirect Purchaser Plaintiff PacifiCare served its responses and objections to Defendants' document requests on October 31, 2005, and plan on producing documents by the end of November.

#### **B. Pending Discovery Dispute**

On October 25, 2005 Plaintiffs requested a telephonic hearing to address a dispute between Plaintiffs and Defendants regarding Defendants' redaction of information concerning future plans for TriCor from documents produced to Plaintiffs. Initially scheduled for November 8, 2005, this teleconference was rescheduled at Defendants' request to November 15, 2005. Pursuant to the procedures established in paragraph 6(h) of the Scheduling Order, Plaintiffs and Defendants have filed letters with the Court stating their positions on the dispute. During the November 15, 2005 teleconference, the Court denied Plaintiffs' request to compel production of information related to

Defendants' future plans for TriCor, for reasons set forth in the transcript of that teleconference.

### **C. Motion Practice**

Pursuant to the Scheduling Order, as amended by this Court on October 19, 2005, Defendants filed a joint Consolidated Motion to Dismiss on October 19, 2005. Pursuant to the schedule approved by the Court, Plaintiffs shall file their responses to Defendants' motion on December 2, 2005, and Defendants' reply, shall be filed on December 22, 2005. There are no other motions or other matters for decision currently pending before this Court.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2005, I electronically filed the foregoing Joint Status Report using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that on November 15, 2005 I caused a copy of the aforementioned document to be delivered to the following attorneys via e-mail:

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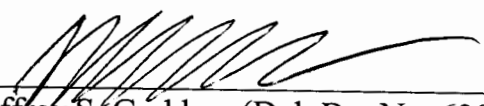
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